



MEMORANDUM

To: PLANNING COMMISSION

Date: June 12, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: REVIEW OF RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) PROJECTS THAT ARE BEHIND SCHEDULE AND CONSIDER TRANSFER OF FISCAL YEAR BUILDING ALLOCATIONS BETWEEN RDSCS PROJECTS

REQUEST

Discuss the status of current RDSCS projects that are behind schedule and consider possible transfer of fiscal year building allocations between projects.

BACKGROUND

At the March 13, 2007 meeting, the Planning Commission approved procedures for the transfer of fiscal year building allotments between projects. The following are the rules that apply to a transfer:

1. The transfer of fiscal year building allotments does not apply to the current fiscal year allotment (FY 2006-07) or to building allotments that were extended from the prior fiscal year (FY 05-06) into the current fiscal year.
2. Transfer of building allotments must occur so that the receiving project has sufficient lead time to obtain the building permit and commence construction prior to the June 30 deadline.
3. The transfer must work as a trade between two developments. Transfer allotments cannot be sold to another development.
4. The transfer may apply to partially allocated and fully allocated developments.
5. Both on-going and recently allocated first time projects may transfer building allotments; however, a new, first time project must have an approved vesting tentative map and approved development agreement, if the transfer of allotments occurs after December 31 of the fiscal year.

Projects with a Potential to Trade Building Allotments:

Staff previously conducted a survey of all RDCS project developers to determine which projects are able to receive a fiscal year 2007-08 building allotment in trade for a fiscal year 2008-09 or 2009-10 allotment. We identified four projects whose applicants expressed an interest in trading their fiscal year 2008-09 or 2009-10 allotment for a fiscal year 2007-08 or fiscal year 2008-09 allotment. The four projects were MC-04-13: Barrett – Odishoo; MC-04-21: Barrett – Syncon Homes; MC-04-12: E. Dunne – Dempsey (Jasper Park) and MC-04-22: Jarvis – South County Developers. Subsequent to this survey, the applicant for the Barrett-Odishoo project is no longer interested in trading fiscal year building allotments.

Also as previously identified, only one project has building allocations awarded in fiscal year 2007-08 that will need to trade with another project's fiscal year 2008-09 allotment. The project is application MC-04-04: Diana-Chan. The Chan project was awarded 13 building allotments in fiscal year 2007-08 and an additional 5 allotments in fiscal year 2008-09. The project has filed applications for zoning amendment, development agreement and subdivision approval. Funding was received a few weeks ago to begin preparation of the project's CEQA document. A trade would give this project an additional year market the project to a developer and the time needed to prepare the CEQA document and receive the needed entitlements.

Staff has identified one other project as a candidate for a trade of fiscal year allotments. The applicant for the MC-05-04: Monterey – Sherman House project is requesting a one year Exception to Loss of Building Allotment to extend the project's fiscal year 2008-09 allotment into fiscal year 2009-10. The Sherman House ELBA request was considered by the Planning Commission at the May 22, 2007 meeting and was continued to the June 26, 2007 meeting to allow staff time to research the findings and legal issues related to this request. In lieu of an ELBA, the Sherman House project could trade their fiscal year 2008-09 allotment with a portion of another project's fiscal year 2009-10 allotment. Such a trade does not require the Planning Commission to make findings as no building allocations are being extended, only traded. The applicant for the Sherman House project will agree to trade the project's seven fiscal year 2008-09 allotments for seven building allotments in fiscal year 2009-10.

Recommended Trade/Transfer of Fiscal Year Building Allotments:

Staff recommends the trade of fiscal year building allotments occur between the Chan, Dempsey/Delco and Sherman House projects as shown in the attached Table. As mention above, the Chan project will need more time to obtain their entitlements and bring a developer on board. The Sherman House project would like to extend their fiscal year 2008-09 allotment out a year. Both projects trade requests can be accommodated to an extent by the Dempsey/Delco project. The applicant for this project would like to move up eight building allotments awarded to the project for fiscal year 2008-09 into 2007-08 and would also like to move up seven building allotments awarded for fiscal year 2009-10 into 2008-09. The eight 08/09 allotments can be move up a year through a trade with the Chan project and the seven 09/10 allotments can be move up a year through an equal trade with the Sherman House project. The developer of the Dempsey/Delco project is also in a position to easily accommodate the moved up allotments

from the other two projects having already extended local street improvements into the phase 2 and phase 3 portions of their project as part of their phase 1 off-site improvements.

The recommended trade would still leave the Chan project with five allotments in fiscal year 2007-08. These five allotments could be moved back a year through a trade with the Barrett-Syncon Homes project. The Syncon project was awarded 13 building allotments in fiscal year 2007-08 and five allotments in 2008-09. A trade with the Chan project would give the Syncon project 18 allotments in fiscal year 07/08 and no allotments in 08/09. This trade is not recommended as it would create a one year gap in the development schedule for the Syncon Homes project (see attached Table 1).

While the recommended trade leaves the Diana-Chan project with five building allotments in fiscal year 2007-08, the applicant would be able to preserve their building allotment for the fiscal year either by completing their entitlement process and commencing construction of the five dwelling units prior to June 30, 2008 or by extending the building allotment into the fiscal year. The option to extend the building allotment will only be possible if the applicant is able to demonstrate due diligence and substantial progress under an approved development schedule.

RECOMMENDATION

Adopt attached Resolution approving a transfer of fiscal year building allocations between RDSCS projects.

Attachment:

1. Approval Resolution
2. Table Showing Fiscal Year Transfers

Table 1
Distribution of Building Allotments for Projects
Under Consideration to Trade Allotments for
FY 2007-08, FY 2008-09 & FY 2009-10

APPROVED DISTRIBUTION

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY2009-10</u>	<u>TOTAL</u>
<u>APPLICATIONS:</u>				
MC-04-04: Diana – Chan	13	5	14	32
MC-04-12: E. Dunne - Dempsey	5	8	14	27
MC-04-21: Barrett-Syncon Homes	13	5	14	32
MC-04-22: So. Valley Developers	36	28	14	78
MC-05-04: Sherman		7		7

RECOMMENDED DISTRIBUTION

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY2009-10</u>	<u>TOTAL</u>
<u>APPLICATIONS:</u>				
MC-04-04: Diana – Chan	5	13	14	32
MC-04-12: E. Dunne - Dempsey	13	7	7	27
MC-04-21: Barrett-Syncon Homes	13	5	14	32
MC-04-22: So. Valley Developers	36	28	14	78
MC-05-04: Sherman			7	7

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A TRANSFER OF FISCAL YEAR BUILDING ALLOTMENTS BETWEEN APPLICATIONS MC-04-04: DIANA-CHAN, MC-04-12: E. DUNNE – DEMPSEY(DELCO) AND MC-05-04: MONTEREY-SHERMAN.

WHEREAS, the Planning Commission has approved procedures for the transfer of fiscal year building allotments between projects; and

WHEREAS, applicants awarded a residential building allotment pursuant to Chapter 18.78 of the Morgan Hill Municipal Code have requested the ability to trade their fiscal year allotments with another development either to advance the timing of their development or to provide additional time to commence construction; and

WHEREAS, the Planning Commission is authorized under Section 18.78.125 to approve the award and issuance of residential building allotments; and

WHEREAS, testimony received at a duly-noticed public meeting, along with exhibits and drawings and other materials have been considered in the review process;

NOW, THEREFORE, BE IT RESOLVED BY THE MORGAN HILL PLANNING COMMISSION OF THE CITY OF MORGAN HILL THAT:

SECTION 1: The Planning Commission hereby approves a trade/transfer of fiscal year building allocations between application MC-04-04: Diana-Chan and application MC-04-12: E. Dunne-Dempsey/Delco, trading 8 fiscal year 2007-08 building allotments for 8 fiscal year 2008-09 building allotments.

SECTION 2: The Planning Commission hereby approved a trade/transfer of fiscal year building allocations between application MC-05-04: Monterey-Sherman and application MC-04-12: E. Dunne-Dempsey/Delco, trading 7 fiscal year 2008-09 building allotments for 7 fiscal year 2009-10 allotments.

SECTION 3: The approved transfer distribution of building allotment is further shown in the attached Exhibit A.

Resolution No.
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**PASSED AND ADOPTED THIS 12th DAY OF JUNE 2007, AT A REGULAR MEETING OF
THE MORGAN HILL PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Frances Smith, Deputy Clerk

Robert Escobar, Chairperson

Exhibit A
Distribution of Building Allotments for Projects
Trading Allotments for
FY 2007-08, FY 2008-09 & FY 2009-10

<u>APPLICATIONS:</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY2009-10</u>	<u>TOTAL</u>
MC-04-04: Diana – Chan	5	13	14	32
MC-04-12: E. Dunne - Dempsey	13	7	7	27
MC-05-04: Sherman			7	7